

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC02-082. Planned Development Rezoning from CG General Commercial and R-1-8 Residence District to A(PD) Planned Development District and subsequent permits to allow up to 75 multi-family attached residences and a 0.27 acre park on a 1.44 gross acre site located at the west side of McCreery Avenue approximately 230 feet south of Alum Rock Avenue. Council District: 05

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

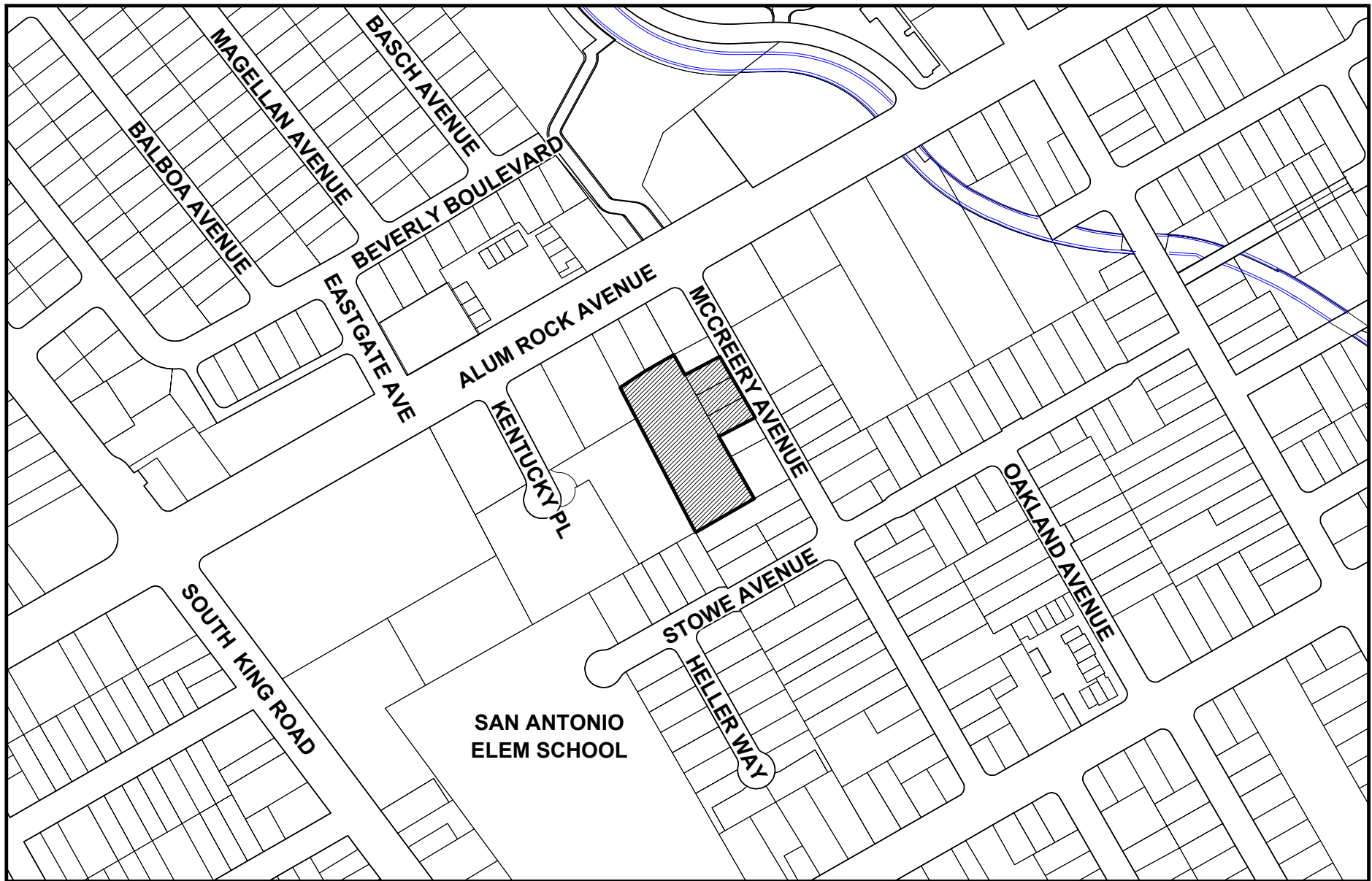
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **November 26, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 7, 2003** and ends on **November 26, 2003**

A public hearing on the project described above is tentatively scheduled for **December 10, 2003** at **6 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Carnegie East S.J. Branch Library, 1102 E. Santa Clara St., and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Elena Lee** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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Scale: 1"=300'

Created on 12/04/03

File No: PDC02-082

District: 05

Quad No: 68

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Alum Rock and McCreery Residential Project.

PROJECT FILE NUMBER: PDC02-082

PROJECT DESCRIPTION: Planned Development Rezoning from CG General Commercial and R-1-8 Residence District to A(PD) Planned Development District and subsequent permits to allow up to 75 multi-family attached residences and a 0.27 acre park on a 1.44 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: West side of McCreery Avenue, approximately 230 feet south of Alum Rock Avenue

COUNCIL DISTRICT: 05

NAME OF APPLICANT: Dry Heron , LLC

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Attention: Greg Blackwell, 61-B Victory Lane, Los Gatos, CA 95030

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Air Quality

- Precautions should be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these

mitigation measures, the short-term air quality impacts associated with construction will be reduced to less-than significant levels.

1. Use dust-proof chutes for loading construction debris onto trucks.
2. Water to control dust generation during demolition of structures and break-up of pavement.
3. Cover all trucks hauling demolition debris from the site.
4. Ware or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
5. Cover all trucks hauling soil, sand, or loose materials, or required trucks to maintain at least two feet of freeboard.
6. Sweep daily all paved access road, parking areas, and staging areas at construction sites.
7. Sweep streets daily if visible soil material is carried onto adjacent public streets.
8. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc)
9. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. Replant vegetation in disturbed areas as quickly as possible.

Biotics

- Trees approved for removal shall be replaced as follows:
 1. Each tree between 12 inches and 18 inches in diameter removed shall be replaced with two 24-inch box trees.
 2. Each tree greater than 18 inches in diameter shall be replaced by four 24-inch box trees.

Water Quality

- The project shall incorporate mitigation measures to minimize urban run-off. The mitigation measures include a storm water run-off management plan for construction activities to the satisfaction of the Department of Public Works, and compliance with all applicable City, Local, Regional, State and Federal laws. The project shall conform to the City of San Jose National Pollution Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City project Engineer. The Erosion Control Plan may include BMPs as specified by the Association of Bay Area Governments' Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For above, please call the Department of Public Works at (408) 277-5161.

Noise

- To reduce the temporary increase in noise due to construction activities, the project will be conditioned to include proper equipment mufflers, maintenance of equipment, and limitation of construction hours. Noise construction operations shall be scheduled for the daytime hours of 7:00 AM to 7:00 PM Monday through Friday so as to avoid the more sensitive evening, nighttime, and weekend hours. With these mitigation measures, the temporary impacts to the project noise will be reduced to a less than significant level.
- To reduce interior noise levels to 45 dB DNL, the project will utilize windows and doors opening to the outside with STC ratings of 25 dB for reasonable noise control. Party wall assembly shall have several inches of air space, fiberglass insulation and minimal structural connections to meet the 50 dBA STC requirement. Fire stops between units should not provide a strong structural connection. That is, they

should be of lightweight material, such as sheet metal or fiberglass, that cannot conduct low frequency sound and vibration between units. Outdoor living spaces shall be shielded and a sufficient distance from nearby traffic sources, so that the Ldn noise levels in these areas shall be between 45-55 dBA Ldn from off-property sources.

Hazardous Materials

Additional site investigation activities, including ground penetrating radar and magnetometer survey as recommended by the Phase I environmental study, to determine the nature of the vertical pipe will be conducted prior to issuance of the development permit and demolition. The project shall implement all feasible recommendations.

Traffic

- A contribution of \$20,000 will be required for the installation of the new traffic signal at Alum Rock Avenue and McCreery Avenue

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on November 26, 2003, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: _____

Deputy

Adopted on: _____

Deputy